



1 I hereby certify that this correspondence is being
2 deposited with the United States Postal Service as
3 "Express Mail Post Office" addressed to:
4 Commissioner for Patents
5 Washington, DC 20231, on 3/7/02

6 By Kristi Roetkin

#2

PATENT

7 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

8 In re application of:)

9 Stetson-Buck, Jannette)

10 Serial No. 10/067316)

11 Filed: February 7, 2002)

12 For: Electric lifting apparatus)
13 for use with a ladder)

14 Commissioner for Patents
15 Washington, DC 20231

16 Dear Commissioner:

17 Pursuant to 37 Code of Federal Regulations §1.10(e), the applicant herein petitions for an
18 earlier filing date. Section 1.10(e) provides:

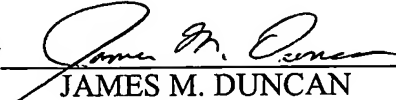
19 Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with
20 sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the
21 USPS, may petition the Commissioner to consider such correspondence filed in the
22 Office on the USPS deposit date . . .

23 As the Commissioner is well aware, the events on and following September 11, 2001
24 disrupted mail service to the Office in an unprecedented and unforeseeable manner. As detailed
25 in the Declaration of James M. Duncan appearing below, every effort was made to obtain the
26 earliest possible filing date by filing Application Serial Number 10/067316 via United States
27 Post Office Express Mail Service. Due to circumstances entirely out of the control of the
Applicant, the Express Mail package was refused. Instructed to file the Application via First
Class Mail, Applicant did so, only for the Application to apparently be stockpiled and not receive
a filing date until February 7, 2002. Applicant therefore petitions the Commissioner to accord
Application Serial Number 10/067316 the filing date it would otherwise have received,

1 November 19, 2001, but for the disruption of Express Mail Service into Washington, D.C.

2 If the Commissioner believes a telephone conference would assist in considering this
3 Petition, the undersigned may be reached at (661)395-1000.

4 Respectfully submitted,

5 By 
6 JAMES M. DUNCAN
7 Reg. No. 44,664

8 This petition is based upon the following Declaration of James M. Duncan.

9 **DECLARATION OF JAMES M. DUNCAN**

10 1. I am an attorney-at-law duly licensed to practice before all courts in the State of
11 California, and I am registered to practice before the United States Patent and Trademark Office,
12 Registration Number 44,664. I am counsel of record for Applicant Jannette Stetson-Buck. The
13 matters set forth in this declaration are true of my own personal knowledge, and if called as a
14 witness I could and would competently testify to all matters set forth herein.

15 2. On November 19, 2001, patent counsel for the applicant, James M. Duncan (Reg.
16 No. 44,664) attempted to file Application Serial Number 10/067316 via United States Postal
17 Service Express Mail. Included with the application was a certificate of mailing via United
18 States Post Office Express Mail Service. A true and correct copy of the certificate of mailing is
19 attached hereto as Exhibit A.

20 3. On November 20, 2001, the Express Mail Envelope containing Application Serial
21 Number 10/067316 was returned to the offices of James M. Duncan. Included with the returned
22 Express Mail Envelope was a routing slip stating:

23 "Sorry, not accepted. Express mail service to Washington D.C. zip codes
24 202-205, is temporarily suspended. You can use First-class mail destined
25 to these zip codes or wait to send item until this temporary suspension is
26 lifted."

27 4. A true and correct copy of the Express Mail envelope and the routing slip are
attached hereto as Exhibit B.

5. A true and correct copy of the routing slip is attached hereto as Exhibit C.

6. Upon receiving the returned Express Mail Envelope containing Application Serial
Number 10/067316, I instructed my secretary, Rhonda McWilliams, to immediately mail the
Application to the United States Patent and Trademark Office via United States Postal Service
First Class Mail. Ms. Williams mailed the Application as instructed on November 20, 2001. A
true and correct copy of the November 20, 2001 certificate of mailing is attached hereto as

1 Exhibit D.

2 7. There were no changes of any kind made to Application Serial Number
3 10/067316 from the time it was returned in the Express Mail Envelope on November 20, 2002
4 until the time it was sent out via First Class Mail on the same day, November 2002.

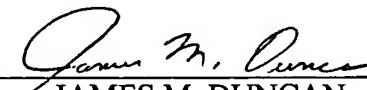
5 8. On December 20, 2002, I left a detailed telephone message with the Office of
6 Initial Patent Examination (OIPE), in which I provided a description of Application Serial
7 Number 10/067316 by its title and inventor name. I left my name and telephone number and
8 requested verification that the application had been received. I did not receive a response to this
9 telephone call.

10 9. On January 18, 2002, I sent an email to the USPTO in an effort to verify that
11 Application Serial Number 10/067316 had been received. A true and correct copy of my January
12 18, 2002 email is attached hereto as Exhibit E.

13 10. On January 25, 2002, I received a telephone call from Ms. Terry Dye (703)308-
14 1201 of the USPTO in response to my January 18, 2002 email. Ms. Dye advised me to wait a
15 few more weeks before filing a duplicate application. I asked Ms. Dye if the Application would
16 receive as its filing date the date it was actually received in Washington, D.C. or the date upon
17 which the Application was processed into O.I.P.E. Although Ms. Dye was extremely helpful,
18 either she did not know or I did not understand which of these dates would apply.

19 11. On approximately February 13, 2002, I received the return receipt postcard mailed
20 with Application Serial Number 10/067316. The label on the return receipt post card indicated
21 the Application had received a filing date of February 7, 2002, over two months later than the
22 date on which I unsuccessfully attempted to file the Application via United States Express Mail.

23 I hereby declare that all statements made herein of my own knowledge are true and that
24 all statements made on information and belief are believed to be true; and further that these
25 statements were made with the knowledge that willful false statements and the like so made are
26 punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that this declaration was
27 executed on March 7, 2002, at Bakersfield, California.

By 
JAMES M. DUNCAN
Reg. No. 44,664

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exhibit A



PERLMAN DUNCAN, LLP
ATTORNEYS AT LAW

File

November 19, 2001

Via United States Postal
Service Express Mail

Commissioner for Patents
Box Patent Application
Washington DC 20231

RECEIVED
MAR 14 2002
TECHNOLOGY CENTER 2800

Title: Method and Apparatus for French Manicures
Inventor: Jannette Stetson-Buck
Docket No. STET-01-001
Papers Being Filed: Utility Patent Application

Dear Commissioner of Patents:

Enclosed herein are the following items pertaining to the subject utility patent application:

Utility Patent Application Transmittal (1 page)
Declaration for Utility Patent Application (2 pages)
Fee Transmittal for FY 2002 (1 page)
Check in the amount of \$454.00
Specifications (Description, Claims, Abstract) (14 pages, including cover)
Drawings (5 sheets)

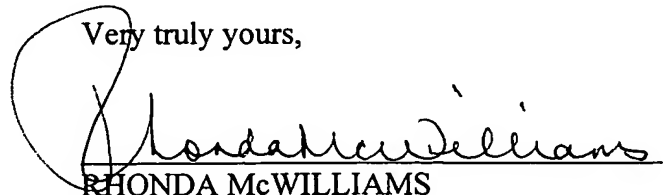
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Very truly yours,


RHONDA McWILLIAMS

Enclosures

\\Duncan\cases\Stetson-Buck Patent\Correspondence\Trans App to PTO.wpd

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exhibit b

RECIPIENT

The sender has requested notification upon delivery. Immediately upon receipt, please telephone:

Name: _____

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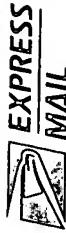
DESTINATARIO

El remitente ha requerido notificación inmediata contra entrega.

Por favor llame a:

Nombre: _____

Teléfono: _____



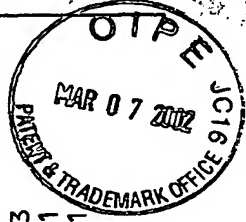
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COD Fee _____

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Delivery Attempt Time Employee Signature

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Delivery Date Time Employee Signature

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James Duncan Esq.
 1830 Truxten Avenue Suite 204
 Bakersfield, CA 93301

TO: (PLEASE PRINT) PHONE () _____

Commissioner For Patents
 Box Patent Application
 Washington DC 20231

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1	James Duncan Esq.		
2	1830 Truxtun Ave Suite		
3		204	
4	Bakersfield CA 93301		
5			

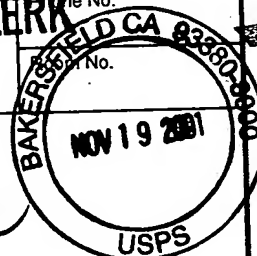
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DISPATCH CLERK

From:

Date

Remarks:

11/19



Sorry, not accepted
Express mail Service to
Washington D.C., zip codes
202-205, is temporarily
suspended..

You can use First-class
mail destined to these zip
codes or wait to send item
until this temporary suspension is
lifted.

ITEM 0-13, April 1998 (Additional Remarks on Reverse)


Thank you

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PERLMAN DUNCAN, LLP

ATTORNEYS AT LAW

November 20, 2001

Via United States Postal
Service First Class Mail

Commissioner for Patents
Box Patent Application
Washington DC 20231

RECEIVED
MAR 14 2002
TECHNOLOGY CENTER 2800

Title: Method and Apparatus for French Manicures
Inventor: Jannette Stetson-Buck
Docket No. STET-01-001
Papers Being Filed: Utility Patent Application

Dear Commissioner of Patents:

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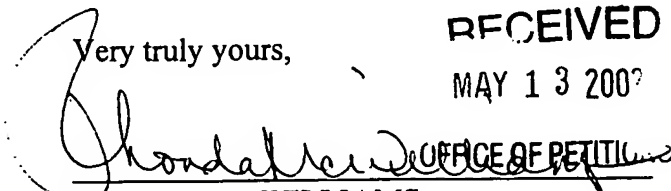
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Very truly yours,

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MAY 13 2002


RHONDA McWILLIAMS

Enclosures

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Dear U.S.P.T.O.:

On November 19, 2001, I filed a new patent application via United States Postal Service Express Mail, addressed to Commissioner for Patents, Box Patent Application, Washington D.C. 20231. On November 20th the Express Mail package was returned to my office, with a note advising me that Express Mail to Washington D.C., zip codes 202-205 was temporarily suspended. The note further advised that I could use first class mail to those zip codes. On November 20th, I sent the patent application via first class mail to the same address, with a return receipt postcard.

As of the present date, January 18, 2002, I have not received the return receipt postcard back, nor has the fee check been received by our bank for payment. On December 20th, I telephoned OIPE and left a detailed message describing the application and requesting verification that the application had been received. OIPE never returned my call.

Please advise whether the application has been received. The pertinent information is as follows:

Inventor: Jannette Stetson-Buck

Title: Method and Apparatus for French Manicures

Docket No. STET-01-001

Attorney: James M. Duncan, Reg. No. 44,664

If you are unable to provide the filing status, please advise what my options are for either determining whether the application has been filed or for refiling the application.

Thank you for your assistance.

James M. Duncan
(661)328-1986

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